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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/992,668 | 11/13/2001 | Patrick W. Giralдин | 025505-2005 | 8492 |

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EXAMINER

PIZIALI, JEFFREY J

ART UNIT PAPER NUMBER

2629

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.

09/992,668

Examiner

Jeff Piziali

Applicant(s)

GIRALDIN ET AL.

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 03 February 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☒ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: See Continuation Sheet.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

Telephone No.

JP
6/11/06

Continuation of 4(e) Other:

The applicants are cordially thanked for the 'Supplemental Amendment' (submitted 3 February 2006) to the 'Notice of Non-Compliant Amendment' (mailed 24 January 2006). However, the applicants' 'Supplemental Amendment' is again deemed non-compliant at least for the following reasons:

The applicants' 'Supplemental Amendment' (submitted 3 February 2006) provides an 'Amendments to the Claims' section which improperly incorporates claim language changes previously proposed in the non-compliant 'Reply and Amendment' (filed 14 March 2005).

For instance, independent claim 14 was provided with the 'Currently Amended' status identifier in the non-compliant 'Reply and Amendment' (filed 14 March 2005), and sought to add at least the marked-up text of, "as said members move within the defined environment" to line 14 of the claim (see page 4 of the 'Reply and Amendment').

In contrast, the new copy of claim 14 included with the applicants' 'Supplemental Amendment' (submitted 3 February 2006) is provided with the (incorrect) 'Previously Presented' status identifier and (improperly) includes the non-marked-up text of, "as said members move within the defined environment" in line 14 of the claim (see pages 3-4 of the 'Supplemental Amendment'). See at least amended claims 15 and 27, and new claims 39 and 40 for additional such examples of non-compliance.

As the 'Reply and Amendment' (filed 14 March 2005) has been deemed non-compliant, the 'Amendments to the Claims' section provided at that time was not officially accepted.

The applicants are respectfully encouraged to submit a brand new copy of the entire 'Amendments to the Claims' section properly reflecting any changes (via appropriate marked-up text and accurate status identifiers) relative to the immediate prior version (see the 'Reply and Amendment' filed 21 June 2004).

By such reasoning, this Notice of Non-Compliance is deemed necessary and proper at this time.

Please note: The claims have not been checked to the extent necessary to determine the presence of all possible non-compliance errors. If additional issues of non-compliance are discovered in a subsequent amendment, yet another Notice of Non-Compliant Amendment will be necessitated. Applicants' cooperation is requested in correcting any other errors of which applicants may become aware in the claims.

The applicants are hereby notified that the examiner's art unit has recently changed from Art Unit 2673 to Art Unit 2629, please direct all future correspondence accordingly. Thank you.


J.P.

6 April 2006